

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

Amendment of Specification

The specification has been amended to correct minor typographical errors.

Amendment of Drawings

Figs. 1 and 4 have been amended to correct minor typographical errors.

Replacement drawings are in accordance with § 1.84. Fig. 1 was amended such that the 16 appearing at the top of previous version of the drawing is now 16a. Fig. 4 was amended to replace the 15 on the left hand side of the drawing with 14. Each of these substitutions is to correct a minor typographical error that was inadvertently included in our previous drawings.

Claim Objections

The informalities in claims 6, 8 and 9 have been corrected, as required. Applicant and applicant's attorney believe these claims should no longer have cause for objection.

Claim Rejections – 35 U.S.C. §112

Claims 6-9 were rejected under 35 U.S.C. §112, second paragraph for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6-9 have been amended, such that there should presently be sufficient antecedent basis for these limitations in the claim. Applicant and applicant's attorney respectfully submit that claims 6-9 presently meet the requirements of definiteness set forth in 35 U.S.C. §112, second paragraph and request that this rejection be withdrawn.

Claim Rejections – 35 U.S.C. §103

Claims 6-9 are currently pending in the application.

Claims 6-8 have been rejected under 35 U.S.C. §103 as being unpatentable over Broichhausen (DE 4307207). “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).” MPEP §2143.

These requirements have not been met. First, there is no suggestion or motivation for one skilled in the art, as the Examiner has posited, to modify the Broichhausen reference by replacing a steel rod with a strap. The Examiner has failed to provide an affidavit suggesting that a person of ordinary skill in the art would have modified Broichhausen in this manner; the Examiner has also not cited any reference in which this substitution has been made. Additionally, the suggestion/motivation to combine or modify under §103 must be specific. Where a “statement is of a type that gives only general guidance and is not specific as to the particular form of the claimed invention and how to achieve it ... [s]uch a suggestion may make an approach 'obvious to try' but it does not make the invention obvious.” *Ex parte Obukowicz*, 27 USPQ2d 1063, 1065 (U.S. Pat. and Trademark Off. Bd. of Pat. App. & Interferences 1993) (citations omitted). The Examiner

has not shown that a person having ordinary skill in the art would have been motivated to replace the steel bar of Broichhausen with a strap. Additionally, the Examiner has provided no evidence that if a person having ordinary skill in the art were to replace the steel rod with a strap there would be a reasonable expectation of success.

The prior art references do not teach or suggest all the claim limitations. The Examiner states that Broichhausen discloses a U-shaped bracket 7 “provided on a nose of a lifting jack 5.” Applicant and applicant’s attorney do not find this statement to be accurate. Fig. 1 of Broichhausen shows a nose of a lifting jack 5 which is not in contact with a U-shaped bracket 7, rather the nose of the lifting jack 5 is in contact with a rod 3, which is connected to a U-shaped bracket 7. The Examiner further claims “that the steel rod of Broichhausen is structurally equivalent to the claimed strap.” If the Examiner is referring to the steel rod 3 in Fig. 1, applicant and applicant’s attorney do not understand how the steel rod 3 could be replaced with a strap and maintain its function. If the Examiner was not referring to steel rod 3, but rather to steel rod 4, applicant and applicant’s attorney again do not see how replacing one of the steel rods 4 with a strap would allow the device to maintain its function. The steel rod 4 that Broichhausen uses maintains its shape in this application whereas a strap would not maintain the loop shape depicted in Fig. 1.

Additionally, the Examiner suggests that “the U-shaped bracket of Broichhausen could be considered to have a downwardly [sic] opening depending on the direction of reference.” Both Fig. 1 and Fig. 2 in Broichhausen depict the U-shaped bracket 7 as a right-side opening U, not a downward opening U. Applicant and applicant’s attorney do not agree that the direction of reference would affect whether Broichhausen’s U-shaped

bracket 7 can be described as opening downward; the bracket is clearly not depicted as opening downward and it appears to function only as depicted – as a sideward opening U.

With respect to claim 7, applicant and applicant's attorney reiterate that even in light of Fig. 2 of Broichhausen, the prior art reference does not teach or suggest all the claim limitations or provide the suggestion/motivation for a person skilled in the art to modify Broichhausen, as noted above.

With respect to claim 8, applicant and applicant's attorney maintain that the prior art reference does not teach or suggest all the claim limitations, as noted above.

For the above reason, it is submitted that Broichhausen does not establish a *prima facie* case of obviousness under 35 U.S.C. 103 with respect to claims 6-8 and withdrawal of the rejection is respectfully requested.

Claim 9 has been rejected under 35 U.S.C. 103 as being unpatentable over Broichhausen in view of Molinari (US 4,042,202). The Broichhausen patent discloses, as the Examiner points out, a method for lifting a wheel of a vehicle. The Molinari patent discloses using jack stands in conjunction with wheel jacking devices for supporting a vehicle. The Examiner states "it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used jack stands in the method of Broichhausen, in light of the teachings of Molinari, as is known in the art." As previously discussed above, the method of Broichhausen does not anticipate the applicant's method. As such, all claim limitations are not taught or suggested. For the above reason, it is submitted that the combination of Broichhausen in view of Molinari does not establish a *prima facie* case of obviousness under 35 U.S.C. 103 with respect to claim 9 and withdrawal of the rejection is respectfully requested.

It should be understood that the above remarks are not intended to provide an exhaustive basis for patentability or concede the basis for the rejections in the Office Action, but are simply provided to overcome the rejections made in the outstanding Office Action in the most expedient fashion.

This application is believed to be in condition for allowance and such action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, reading "C. David Emhardt". The signature is fluid and cursive, with a large, stylized "C" at the beginning.

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